

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NITI STAR LLC,

Plaintiff,

-against-

UR MENDOZA JADDOU, et al.,

Defendants.

23-CV-3409

ORDER OF DISMISSAL

JESSICA G. L. CLARKE, United States District Judge:

On September 30, 2023, Defendants filed a motion to dismiss the Complaint pursuant to Rule 12(b) of the Federal Rules of Civil Procedure. *See* ECF No. 18. As Plaintiff did not file any opposition to the motion, the Court, on October 26, 2023, ordered Plaintiff to show cause by November 1, 2023, why Defendants' motion should not be deemed unopposed. ECF No. 26. The Court warned Plaintiff that failure to show such good cause "may result in Defendants' motion being granted as unopposed or in dismissal of the case for abandonment or failure to prosecute pursuant to Rule 41 of the Federal Rules of Civil Procedure." *Id.* Plaintiff has not filed any opposition.

Upon review of Defendants' motion papers, the motion is GRANTED, and the case is dismissed, both for failure to prosecute pursuant to Rule 41 and substantially for the reasons stated in Defendants' memorandum of law. Additionally, although leave to amend a complaint should be freely given "when justice so requires," Fed. R. Civ. P. 15(a)(2), it is "within the sound discretion of the district court to grant or deny leave to amend." *McCarthy v. Dun & Bradstreet Corp.*, 482 F.3d 184, 200 (2d Cir. 2007). The Court declines to grant such leave here *sua sponte*. A district court may deny leave to amend when, as here, amendment would be futile because the

problem with the claim “is substantive . . . [and] better pleading will not cure it.” *Cuoco v. Moritsugu*, 222 F.3d 99, 112 (2d Cir. 2000).

Any pending motions are moot. All conferences are vacated. The Clerk of Court is directed to close the case.

Dated: November 2, 2023
New York, New York

SO ORDERED.



JESSICA G. L. CLARKE
United States District Judge